IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

Crl.Rev.Pet.No. 3034 of 2007()

CRA.179/2003 of I ADDL. SESSIONS COURT, TRIVANDRUM
CC.477/2001 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, NEDUMANGAD

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REVN. PETITIONER: APPELLANT/ACCUSED

BABU @ THEEVEETI BABU,
S/O.ACHUTHAN NAIR, T.C. 41/1715,
NEAR KURIYATHIL MARKET, KURIYATHI WARD,
MANACAUD VILLAGE.

BY ADV. SRI.KILLIYOOR P.GOPALAKRISHNAN NAIR

RESPONDENTS: RESPONDENT/COMPLAINANT AND STATE

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 20/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 3034 OF 2007

Dated this the 20th day of August, 2007

O R D E R

The revision petitioner was prosecuted by the Sub Inspector of Police, Vattappara in Crime No.157/01 for offences punishable under sections 454 and 380 IPC. He was tried by JFCM-I, Nedumangad as C.C.No.477/01 for the aforementioned offences.

2. The case of the prosecution can be summarized as follows:-

On 14.8.07 at about 11 a.m. the accused trespassed into house No.VP-VII/37 of Vattappara Panchayat belonging to PWs 1 and 2 by breaking open the door of the said house and committed theft of a T.V. worth Rs.7,000/-, Philips tape recorder worth Rs.3,000/- and 3 imitation bangles worth Rs.150/- and took away those articles in an autorikshaw bearing registration No.KL-01B-3754 driven by the accused himself.

3. The prosecution altogether examined 7 witnesses as PWs 1 to 7 and got marked 5 documents as Exts.P1 to P5 and 7 material objects as MOs 1 to 7.

4. After the close of the prosecution evidence, the accused was questioned under section 313(1)(b) Cr.P.C. with regard to the incriminating circumstances appearing against him. He denied those circumstances and maintained his innocence. He did not adduce any defence evidence.

5. The learned Magistrate after trail, as per judgment dated 17.3.03 found the revision petitioner guilty of the offences charged against him and sentenced him to undergo simple imprisonment for three years and to pay a fine of Rs.5,000/- (Rupees five thousand only) and on default to pay the fine, to suffer simple imprisonment for six months under section 454 IPC and to undergo simple imprisonment for three months and to pay a fine of Rs.5,000/- (Rupees five thousand only) and on default to pay the fine, to suffer simple imprisonment for six months under section 380 IPC with a direction that the substantive sentences shall run concurrently. Aggrieved by the conviction and sentence, the revision petitioner preferred an appeal as Crl. Appeal No.179/03 before the First Additional Sessions Court, Thiruvananthapuram, who as per judgment dated 17.2.2006 confirmed the conviction entered and the sentence passed against

the revision petitioner. It is the said judgment which is assailed in this revision.

6. Eventhough the learned counsel for the revision petitioner attacked the conviction in various grounds, the conviction has been recorded by the courts below after a careful evaluation of the oral and documentary evidence in the case. In the absence of any infirmity in the appreciation of evidence by the courts below, this court, sitting in the rarefied revisional jurisdiction, will be loathe to interfere with the said findings. The conviction entered against the revision petitioner is accordingly confirmed.

7. What now survives for consideration is the question regarding the adequacy or otherwise of the sentence imposed on the revision petitioner. The occurrence was committed in a daring manner in broad day light after breaking open the door of the house of PWs 1 and 2. MO1 T.V., MO2 TV cover, MO3 tape recorder and MO7 imitation bangles(3 numbers) which were stolen from the house of PW1 were carried by the revision petitioner in an autorikshaw when he was intercepted at 2.30 p.m. on the same day by PW6, the Head Constable of Vattappara Police Station.

The above material objects as well as the autorikshaw were seized under Ext.P4 mahazar. PW3, who is the neighbour of PWs 1 and 2, had also testified before the court regarding the daring manner in which the offence was committed. No doubt, PW3 has not identified the accused. But then, the recovery of the stolen articles soon after the offence from the possession of the revision petitioner and the identification of the articles as belonging to them by PWs 1 and 2 confirm the prosecution case in this behalf. The courts below have been alive to the need for deterrence in the sentence in cases of this nature. I see no reason to interfere with the sentence imposed on the revision petitioner.

This revision is accordingly dismissed.

(V. RAMKUMAR, JUDGE)

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